

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

JOSEPH W FONTENOT

CASE NO. 6:20-CV-00115

VERSUS

JUDGE ROBERT R. SUMMERHAYS

UNION TANK CAR CO

MAGISTRATE JUDGE CAROL WHITEHURST

ORDER

Presently before the Court is the Daubert Motion to Exclude Expert Reports/Testimony of Plaintiff's Experts [ECF No. 24] filed by Defendant. Defendant argues that the expert reports and opinions of Plaintiff's experts, Enrique Medina and Dr. Josef Thundiyl, should be excluded because they provide "no testable methodology and only offer[] conclusory speculative opinions." The Court has reviewed these reports and finds that the reports include the credentials of both experts as well as the materials they relied upon to reach their conclusions. For example, Mr. Medina cites all the medical information that he reviewed regarding Plaintiff as well as the studies that he relied upon to reach his conclusions. Also, Dr. Thundivil cited his medical credentials as well as the medical information regarding Plaintiff which he examined to reach his medical conclusions. The Court's gate-keeping function under *Daubert* ensures that "expert testimony is admissible only if it is both relevant and reliable." *Pipitone v. Biomatrix, Inc.*, 288 F.3d 239, 244 (5th Cir. 2002). Here, Defendant's complaints about the adequacy of Plaintiff's expert reports can be addressed through appropriate expert discovery and, at trial, through "[v]igorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof [as these are] the traditional and appropriate means of attacking shaky but admissible evidence." *Id.* (quoting *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)). In sum, Defendant's arguments go to the weight to be given to the testimony in the reports not their admissibility. Accordingly,

IT IS ORDERED THAT the Daubert Motion to Exclude Expert Reports/Testimony of Plaintiff's Experts [ECF No. 24] is DENIED.

THUS DONE in Chambers on this 17th day of February, 2022.

A handwritten signature in black ink, appearing to read 'R. Summerhays', written over a horizontal line.

ROBERT R. SUMMERHAYS
UNITED STATES DISTRICT JUDGE